IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 727 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T. CORPORATION - Appellant(s)
Versus
OMNA KUTTAN KUNJU PILLAI & 1 - Defendant(s)

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Appearance :
MS. MAYA DESAI for Appellant(s) : 1,
SERVED BY RPAD - (N) for Defendant(s) : 1,
SERVED BY AFFIX.(N) for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/08/2007

ORAL JUDGMENT

Ms. Maya Desai, learned counsel for the appellant.

2. The appellant-Gujarat State Road Transport Corporation [GSRTC], being aggrieved by the award dated 7.10.1985 made by the Motor Accidents Claims Tribunal [Main], Surat, in Motor Accidents Claims Petition No. 702/83, is before this Court with a submission that the award made against the interest of the GSRTC is patently illegal.

3. The short facts necessary for disposal of the present appeal are that the claimant Omna Kuttan Kunju Pillai came to the Court with a submission that a bus belonging to GSRTC was coming from Udhna Railway Station, it stopped at Udhna Bus Stand. When everybody was trying to board it, the conductor suddenly rang the bell and driver, with great speed started the bus. The claimant could hardly put his leg on the footrest, others started shouting to stop the bus, the bus was stopped after covering the distance of about 200 feet but in the meanwhile, right leg of the claimant was crushed. The GSRTC and its driver in their written statements submitted that the claimant was trying to board

a running bus and if he had fallen down from the running bus, the GSRTC or its driver cannot be held negligent.

4. Learned Tribunal, after recording the evidence and hearing the parties, recorded a finding that not only the claimant but number of others entered the bus, but before everybody could settle, the conductor rang the bell, as a result of which the driver started the bus.

5. The claimant, in support of his case, has examined his ownself and produced other documents. Unfortunately, the conductor of the bus or the driver of the bus did not enter the witness box to controvert the factual allegations made in the statements made by the claimant before the Tribunal. The learned Tribunal relying upon the uncontroverted testimony of the claimant has recorded findings into the negligence and rashness of the driver of the bus. Though it was vehemently argued that there were material variances between the pleadings and evidence and that there were omissions amounting to contradictions but in the

opinion of this Court, statements of the claimant are consistent with the pleadings raised by him. The Tribunal was absolutely justified in granting the claim in favour of the claimant.

6. No other point was argued by the learned counsel for the appellant. The appeal deserves to and is accordingly dismissed. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

pirzada/-